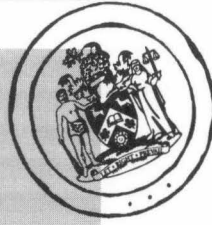


Annual Report 1992



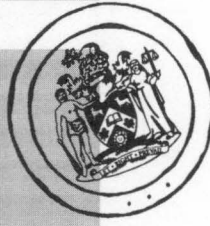
The Law Society
of Upper Canada



Law Society of Upper Canada
Annual Report 1992

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Introduction

The Law Society of Upper Canada is the governing body of Ontario's lawyers and is responsible for their education, licensing, supervision and discipline. The Society's affairs are conducted by forty-four governors known as Benchers, forty of whom are elected by members of the legal profession every four years, four of whom are members of the lay public and are appointed by the Lieutenant Governor-in-Council. In addition, there are also several *ex-officio* Benchers.



Treasurer's Message

During the past year ended June 30, 1992, the Benchers of the Law Society carried forward the work which I had earlier characterized as a continuing program of responsible reform. The plan which Convocation approved for major reforms to our discipline, complaints and competence procedures was endorsed at the Annual Meeting in November, 1991 and subsequently submitted to the Government of Ontario in preparation for the planning for the legislative agenda. Pending legislative action, the Law Society undertook work on initiatives which could be carried out to reflect the directions charted in the reform package.



James Spence

Our committee on Women in the Legal Profession pursued the new perspectives which were first expressed in their report on "Transitions in the Legal Profession". Guidelines for dealing with sexual harassment were developed. These were adopted by the Law Society for its own workplace environment as an employer and they were recommended to law firms for their consideration. A new Rule of Professional Conduct was added to deal with the issue of sexual harassment in June 1992.

Our committee on Equity in Legal Education and Practice continued to address the question of opportunities in our profession for persons of native and visible minority groups. These efforts build on the early initiatives of the Committee, including the awarding of the first Education Equity Awards of the Law Society one year ago, when they were presented by His Royal Highness The Prince of Wales on the occasion of his becoming an Honorary Bencher.

The new Bar Admission Course of the Law Society completed its first full cycle, providing valuable information for the on-going effort to refine and improve the program further. In the related area of articling, new changes were introduced with the aim of ensuring more consistent and satisfactory practical training for students prior to their call to the bar.

The openness of Convocation proceedings is now well established, and steps have been taken to increase the available information about the operations and affairs of the Law Society. Our Communications Committee organized and carried out a major survey of lawyers and the public, providing us with new insights into perceptions and expectations about the legal profession and the Law Society. This information will allow the Society to improve its communications with the profession and to develop information that is useful and relevant to the public.

Our committee on paralegals continued to work on the provision of legal services for those who do not qualify for Legal Aid. This work involved regular consultations with representatives of the Ministry of the Attorney General who provided great assistance to the effort. By June of 1992 the Committee had prepared recommendations on an appropriate approach to policy issues concerning paralegal services.

At a time of constitutional uncertainty in Canada we endeavoured to establish a new rapport with representatives of the Barreau du Quebec. We were pleased by the welcome generated by our efforts and the discussions which we conducted on matters of common interest to our respective governing bodies provided a hopeful sign for future cooperation.

Other areas in which Convocation initiated continuing projects included a major legal aid review, dispute resolution and issues related to the rules of professional conduct. In the course of the year, Convocation undertook work on these and other matters, and attended to the responsibilities of the Law Society which are ongoing. This work is described in the accompanying reports on committee activities. Also presented in this Annual Report are the audited financial statements and general information about the Law Society and its staff.

Since my last report, there have been a few changes among the Benchers. Anne Marie Stewart resigned in March of 1992 as a lay Bencher. We are grateful for the very helpful service she provided to the Law Society during her term in office. Convocation elected The Honourable Lincoln Alexander, Q.C. as an Honorary Bencher at a special Convocation at which he was enthusiastically welcomed to his new position. John D. Ground, life Bencher, was appointed to the Ontario Court of Justice (General Division) and Casey Hill of Toronto was elected as a Bencher. More recently, Convocation welcomed a new lay Bencher, Hope Sealy from Toronto. We congratulate all of them on their assumption of their new responsibilities.

I completed the second year of my term as Treasurer on June 25, 1992 at which time I had the great pleasure of joining in the applause with which the Benchers greeted the election by acclamation of our new Treasurer, Allan M. Rock, Q.C. As Treasurer, he will, I am sure, continue to serve the Law Society and the profession with the same distinction which has always characterized his work as a Bencher.

My two years as Treasurer confirmed for me what I had learned earlier as a

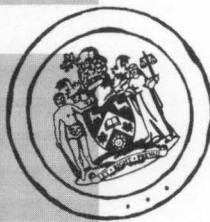
Bencher: the work of the Law Society is very much a collective undertaking. The Benchers rely heavily on the understanding and support of the members of our profession, especially the generous assistance which they provide in our educational programs and other areas of our work. I am pleased to have this opportunity to express my thanks to our members for the commitment they show to the responsibilities of our profession.

In this collective undertaking, the role of the Benchers is of paramount importance. Whatever has been accomplished over the last two years would not have been possible without the vigorous dedication and excellent efforts of the Benchers, senior officials and staff of the Law Society. I conclude by expressing to them my thanks for all they have done for the Law Society and for the encouragement, consideration and support which they have given to me.

A handwritten signature in cursive script, reading "James M. Spence". The signature is written in dark ink and is positioned above the printed name and title.

James M. Spence,
Former Treasurer.

October 1992



Membership Statistics

Members in good standing (*as at June 30, 1992*)

Members in private practice

Sole practitioners	4,809	
Partners	6,195	
Employees	2,670	
Associates	2,079	15,753

Members otherwise employed in Ontario:

Education	234	
Government	2,290	
Other Employment	2,680	5,204

Members not employed in Ontario:

Retired	2,173	
Residing out of province	1,302	3,475

Total Members in Good Standing	<u>24,432</u>
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Other membership data

Honourary members	15
Life Members	458
Members excused fees	547

Admissions and total membership (10 year history)

Year	Admissions				Total Admissions	Total Members
	Male	%	Female	%		
1983	686	69.3	304	30.7	990	16,278
1984	687	67.0	338	33.0	1,025	16,991
1985	665	63.3	385	36.7	1,050	17,756
1986	691	62.2	420	37.8	1,111	18,588
1987	672	59.0	467	41.0	1,139	19,442
1988	672	57.3	501	42.7	1,173	20,417
1989	691	58.4	492	41.6	1,183	21,477
1990	735	60.1	487	39.9	1,222	22,501
1991	701	58.6	495	41.4	1,196	23,469
1992	703	58.1	506	41.9	1,209	24,432

Memberships, 1992 and 1991

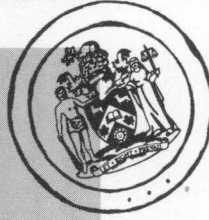
	1992		1991	
	Number	%	Number	%
Male	18,475	75.6	17,966	76.6
Female	5,957	24.4	5,503	23.4
Total	24,432	100.0	23,469	100.0

Membership, by age range and sex, 1992

Age Range			Per cent	
	Male	Female	Male	Female
Under 30	1,050	844	55.4	44.6
30-39	6,066	3,321	64.6	35.4
40-49	6,288	1,462	81.1	18.9
50-65	3,622	261	93.3	6.7
Over 65	1,449	69	95.5	4.5
Total	18,475	5,957	75.6	24.4

Membership geographical distribution, 1992

	Fee paying Members		Life Members		Excused Fee		Total	
	Male	Female	Male	Female	Male	Female	Male	Female
Toronto	8,630	3,260	203	9	204	13	9,037	3,282
Other Ont	7,989	2,293	225	8	263	16	8,477	2,317
Other Prov.	624	229	10	0	37	3	671	232
Outside Can.	277	125	3	0	10	1	290	126
Total	17,520	5,907	441	17	514	33	18,475	5,957



Committee Reports

Admissions

Chair: Earl Levy, Q.C.

Applications to Transfer

The Admissions Committee received 30 applications in fiscal 1992 from members in other Canadian provinces wishing to transfer to practice in Ontario. The particulars are as follows:

Alberta	6
British Columbia	4
Manitoba	4
Quebec	13
Yukon	1
New Brunswick	1
Nova Scotia	1

Calls and Admissions

Under Regulation 4, which governs the transfer to practice in Ontario of members of other Canadian provinces, 12 applicants were called to the Bar and admitted as solicitors .

Under Regulation 5, which governs the admission of full-time deans and teachers of Ontario law schools, four applicants were called to the Bar and admitted as solicitors.

Under Regulation 6, which governs the granting of Occasional Court Appearances, 30 applicants were called to the Bar and admitted as solicitors.

Certification

Chair: Dennis O'Connor, Q.C.

As of June 1992, there were 580 certified specialists practising in Ontario. The certification program has been in existence since 1988 when it began certifying specialists in the areas of civil, criminal and the combined specialties of civil and criminal law. In 1990, family law was added as a specialist designation followed by immigration law in 1992.

In April 1992, Intellectual Property Law Specialist Standards received Convocation's approval. In order to accommodate the interests of the public and the profession, intellectual property law will be divided into the respective specialties of patents, trade-marks and copyrights. Qualifying lawyers may be designated as specialists in patent law, trade-mark law, copyright law, or any combination thereof. Those who qualify in all three may designate themselves as Specialists in Intellectual Property (Patent, Trade-mark and Copyright) Law.

It is anticipated that applications from lawyers practising in the new specialty fields of immigration law and intellectual property law will substantially increase the total number of specialists in the next few months. The following is a current breakdown of specialists practising in Ontario:

Civil Law	385
Criminal Law	116
Civil & Criminal Law	37
Family Law	37
Immigration	5
 TOTAL	 580

Advertising of Specialist Designation

At this time, the manner in which a Specialist may identify the designation in any written material, including letterhead and professional cards, is restricted to "Certified by the Law Society as a Specialist in [area of law]" or the French language equivalent. When using the designation outside Ontario, or in cases where there is any possibility that the designation, without identifying the certifying body, may be misleading, the more complete wording "Certified by the Law Society of Upper Canada as a Specialist in [area of law]" is required. Certified Specialists may further describe their professional background, providing the advertising complies with Rule 12 of the Rules of Professional Conduct. The following example would be acceptable:

"Certified by the Law Society as a Specialist in Family Law. Over 25 years of experience. Senior instructor in the Family Law Section of the Bar Admission Course. Emphasis on [specific areas of expertise]. Appearances in all courts. Also a member of the New York State Bar."

Clinic Funding

Chair: Philip Epstein, Q.C.

The mandate of this Committee is to review and to make recommendations to the Director of Clinic Funding in respect of applications for the funding of clinics and to hear appeals from initial funding decisions by the clinic funding staff.

Independent Community Legal Clinics

Independent community legal clinics played an increasingly important role in the Ontario Legal Aid Plan in the last fiscal year and provided legal services, summary advice and referrals to 266,592 individuals—a 13 per cent increase over the previous fiscal year.

The funds allocated for clinic funding increased to \$29.5 million in 1991-92 from \$26.8 million in 1990-91. Since 1976 when 13 clinics were first funded by the Ontario Legal Aid Plan, the number of clinics has grown to 70 across the entire province. No additional funds were provided for the establishment of new clinics in 1991-92.

Clinic legal services are provided by both lawyers and community legal workers. A number of general service clinics provide a wide range of legal assistance and representation in such administrative law areas as workers' compensation, unemployment insurance, welfare, pensions, immigration and employment rights. Clinics also assist with landlord/tenant disputes and debtor/creditor problems.

The Clinic Funding Committee also continued to fund clinics that offer specialized legal services, in matters such as parole and sentencing (Queen's Correctional Law Project), environmental law (Canadian Environmental Law Association), law for the handicapped (Advocacy Resource Centre for the Handicapped), children's law (Justice for Children and Youth), seniors' law (Advocacy Centre for the Elderly), workers' compensation (Injured Workers Consultants and Industrial Accident Victims Group of Ontario), landlord/tenant problems (Metro Tenants Legal Services and Landlord's Self-Help Centre) and public legal education (Community Legal Education Ontario).

As well, clinics provided services to special communities, such as the Spanish and Chinese-speaking populations of Toronto and native communities in Kenora, Sioux Lookout, Thunder Bay District, Moosonee/Moose Factory and the James Bay coast, Manitoulin Island and Rainy River.

In addition to case-related services, clinics continue to fulfil their special mandate under the Regulation to "encourage access" to legal services and to provide services "designed to promote the legal welfare" of their communities. Many clinics initiated community legal education and preventive law activities, assisted with significant law reform proposals, and engaged in widespread efforts to create better access to the legal aid system and legal services. The Committee allocated special funds to clinics for legal education and outreach projects, such as pamphlets,

fridge magnets, "how-to" booklets, an interactive law game and public legal education programs for community agency workers. The federal Department of Justice reimbursed the Clinic Funding Committee for costs associated with these public legal education projects, a total of \$287,085 for the period April 1, 1991 to March 31, 1992.

In 1991-92, an Advisory Committee of clinic representatives was established to conduct an operation review of the clinic system. A consulting team was hired, and regional consultations were held. The final consultant's report will be provided to the Clinic Funding Committee in the fall of 1992.

Community Legal Clinics -1991 Statistics

Files Open	36,155
Summary advice	158,013
Referrals to:	
private bar	18,031
OLAP	13,229
social agencies	4,889
clinics	11,752
other	24,523
	<u>72,424</u>
	266,592
Public legal education sessions	1,747
Legal education publications	288
Briefs/submissions to public bodies	256

Communications

Chair: Colin McKinnon, Q.C.

During the 1992 fiscal year, members of the Communications Committee set an ambitious agenda to review and evaluate the Law Society's communications with both the profession and the general public. In addition to a comprehensive internal audit of communications materials produced by the Society, the Committee also commissioned Decima Research to conduct a telephone survey of 1,000 Ontario households and 616 members of the legal profession province-wide.

The public survey explored a number of issues relevant to the Society and the legal profession including: the information needs of consumers of legal services, satisfaction with the Society's public information programs, patterns of legal service usage among a variety of demographic groups, perceptions of lawyers, knowledge and attitudes towards paralegals, ADR, pre-paid legal insurance and contingency fees.

Lawyers were asked by Decima to evaluate the Law Society's overall mandate, communications activities and programs. The survey also solicited their input on a number of policy initiatives currently under consideration by Convocation.

Throughout the next three years, the Communications Committee will tailor programs and new initiatives to respond to the issues identified by the profession and the general public in the surveys. Over the next fiscal year the profession can look forward to a new publications program which will provide regular and timely information on practice and insurance issues, discipline matters as well as policy updates on matters affecting the legal profession. A number of changes to improve the efficiency and accessibility of the Society's public programs are also planned for Dial-a-Law, the Lawyer Referral Service and the consumer legal information brochure program.

Public Program Statistics

The current recession has significantly affected the pattern of legal service needs among Lawyer Referral clients and Dial-a-Law callers. Lawyer referrals have increased by approximately 20 per cent to an average of 750 per day. Recent statistics show that requests for referrals in employment/labour, family law, immigration and criminal matters continue to top the list. A similar pattern of legal information requests has surfaced in the Dial-a-Law program, which receives an average of 900 calls per day.

County & District Liaison

Chair: Rino Bragagnolo, Q.C.

The Committee ensures that the County & District Law Presidents Association, through its Executive, is kept informed of the issues under consideration by the Society. The Committee also functions as a vehicle for the County & District Law Presidents Association to bring its concerns to the attention of the benchers. In this way, each group has the benefit of regular informal exchanges on matters of mutual concern as well as the opportunity to seek or provide input on a variety of topics. In fiscal 1992, committee members considered a variety of issues, including the bencher election process and the effects of the amendments to Rule 5 on conflict of interest.

Discipline

Chair: Allan Rock, Q.C.

Statistics

During the fiscal year a total of 245 complaints were issued by the Society alleging professional misconduct or conduct unbecoming a barrister and solicitor—an increase of 16 per cent over the previous year.

Seventy-four lawyers were reprimanded in committee. In addition, 57 lawyers were invited to attend before the discipline committee to receive its advice concerning minor breaches of discipline. Convocation dealt with 32 matters which resulted in the following dispositions:

Reprimands in Convocation	10
Suspensions	10
Permission to resign	6
Disbarments	6

The following matters of interest have been considered by the discipline committee over the last few months.

Negotiated Resolution Procedure

In March, 1992 Convocation rescinded the Society's rarely-used negotiated resolution procedure policy. Established in 1986, the procedure allowed counsel for a solicitor facing a complaint of professional misconduct or conduct unbecoming to meet informally with discipline counsel from the Society and a panel of benchers for the purpose of suggesting an appropriate disposition of a complaint. If the committee disagreed with the appropriateness of the proposed disposition, the solicitor could require that the hearing take place before a different panel, and would not be bound by any admissions made for the purpose of receiving the views of the first panel.

After reviewing the policy in detail, the Committee concluded that it conflicted with the Society's constructive attempts to be open in its deliberations and handling of complaints and recommended it be abandoned. In its place, it was suggested that the Society concentrate on enhancing the existing pre-hearing conference mechanism which permits the solicitor and discipline counsel to meet with an experienced benchers to attempt to resolve difficult aspects of a case.

Advance Publication of Information Respecting Discipline Proceedings

In keeping with the Society's mandate to foster public confidence in its governance by being open in its discipline deliberations, Convocation reaffirmed in May 1992 its policy of publishing the names of members facing disciplinary proceedings along with a summary of the allegations and the time and place of the hearing. The policy, which had been in effect since September 1990, was reviewed by a discipline sub-committee after several members of the profession objected to the publication of lawyers' names who had not yet been found guilty of misconduct.

After considerable debate, the committee recommended to Convocation that the practice of releasing summaries of disciplinary complaints be continued and that sworn complaints be made available upon request.

Complaints

The Law Society experienced a 22 per cent increase in the incidence of complaints

in fiscal 1992. Approximately 5,500 files were opened compared to 4,500 in 1991. Based on current data, it appears likely that the number of complaints will continue to increase during the balance of the calendar year.

The increased volume can be largely attributed to a significant increase in complaints alleging a lawyer's failure to honour practice-related financial obligations, negligence and general communication problems.

The Society received an equal number of complaints in the areas of real estate, civil litigation and family law. Together, they accounted for about 90% of all complaints. The remaining matters arose from other practice areas such as criminal law, wills and estates, administrative law and corporate/commercial law.

In approximately 95 per cent of cases, the concern which prompts a complaint does not involve conduct which would warrant discipline and accordingly, the principal objective of staff is to effect a speedy resolution to a problem. Straight-forward matters are dealt with over the telephone and are normally concluded in a matter of weeks. More complex investigations involve an exchange of correspondence and contacts with relevant parties. Statistics indicate that, apart from the most complex cases, investigations are normally completed within a six month period.

Audit & Investigations

During the Society's 1992 fiscal year, the department completed 232 audit investigations. Many of these investigations were of a serious nature, with mortgage investments and related issues representing a significant proportion of those cases.

The department's examiner program completed 460 audits of a general nature, focusing on trust accounting issues and client complaint issues.

The department has worked closely with other Committees in drafting revisions to Regulation 573. The revisions pertain to accounting, forms and auditing requirements related to mortgage investment activities of "private" (non-institutional) mortgage arranging. Applicable changes have been made to the Law Society's Forms to reflect the amendments envisaged by the changes to the Regulation.

A branch office of the Audit Department has been established at 44 Eccles Avenue in Ottawa, in the Bar Admission Office Building.

Equity in Legal Education and Practice

Chair: Harvey Strosberg, Q.C.

In partnership with Butterworths, the legal publishers, the Committee established the first Education Equity Scholarships which were awarded to six aboriginal and minority law students in October 1991.

The awards, valued at \$2,000 each, were established to respond to the Committee's 1991 equity report which found that natives and visible minorities

were under-represented in the practice of law. The report recommended, among other things, that the Law Society provide such students with effective financial support during law school.

The 1991 Education Equity Scholarships were presented to the following students:

Karen Cunningham	Osgoode Hall Law School
Seema Kalia	Queen's University Law School
Wennie Li	University of Western Ontario Law School
Diana Parsons	University of Ottawa Law School
Larry Wells	University of Windsor Law School
Michelle Williams	University of Toronto Law School

In cooperation with the Legal Education Committee, the Equity Committee is sponsoring summer projects for two students.

A native law student, in conjunction with a native student committee, is developing a support program for aboriginal articling students who are enrolled in the bar admission course or articling in Metropolitan Toronto.

A black law student is conducting a survey among black lawyers and law students to determine the barriers that black lawyers face in obtaining articles and full-time positions and the problems experienced during the course of their careers as students and practitioners.

In addition, a sub-committee is liaising with disabled persons to investigate changes to the bar admission course premises and to our methods of delivering the course that are necessary in order to accommodate the needs of persons with various disabilities. The sub-committee also is working on a compilation of sources of information about services and equipment that are available to assist disabled persons.

Finance

Chair: Kenneth Howie, Q.C.

The financial statements for the Law Society's three funds are at pages 29 to 42 of this Annual Report and are accompanied by the auditors' unqualified opinion. The General Fund includes all professional and administrative operations of the Law Society, including the Great Library and Legal Education, which consists of the Bar Admission Course and Continuing Legal Education. Separate funds are maintained for the Lawyers Fund for Client Compensation and the Consolidated Errors and Omissions Insurance Fund.

General Fund

Due to the exercise of fiscal restraint measures on the part of departments and

committees, the General Fund was able to generate a small surplus of \$167,000 on budget which had forecast a break-even position for the 1992 fiscal year ended June 30th. However, despite this modest surplus on total revenues of \$34.2 million, the Fund faced continuing pressures due to the following:

- **Fewer Full-Fee Paying Members**
Although the total number of members increased by a higher number than forecast, full-fee paying members constituted a smaller proportion of the total membership than anticipated, resulting in a \$179,000 shortfall in fees income.
- **Continuing Legal Education Deficit**
Dramatically reduced enrolments caused by the recession resulted in a \$334,000 deficit in the Continuing Legal Education Department. While significant, the deficit was within the allotted budget.
- **Bar Admission Course Funding Shortfall**
The effects of the Ontario Government's decision to withdraw funding of \$938,000 for the bar admission course were felt this year requiring the imposition of an additional levy of \$20 per member. In order to replace this funding, the Society was also required to apply for a special grant from the Law Foundation of Ontario and to raise students' tuition fees.
- **Legal Aid Cost Increases**
Record demand increases of 30 per cent for Legal Aid certificates, have increased the administrative costs of the Plan requiring the Society to raise the levy by \$55 per member.

Osgoode Hall Building Addition

As reported last year, the major building addition at Osgoode Hall was completed at a cost of approximately \$14.8 million, financed by a line of credit obtained from the Toronto Dominion Bank. To stabilize exposure to interest rate fluctuations and provide orderly repayment of this debt, \$6 million of the line of credit has been converted to a five year interest rate swap agreement at a fixed rate of 8.3% effective October 1, 1992.

Annual Fees

Fees have risen \$60 or 5.5 per cent in 1992-1993 due in large part to the contribution that the Law Society is required to make in order to meet 25 per cent of the costs of financing the administration of the Ontario Legal Aid Plan. The portion of the fees earmarked for the Law Society's operations has decreased by \$3 per member as a result of measures which include a hiring freeze and zero salary increases for professional staff. Efforts are on-going to restrict pressure on fees.

The annual fees for 1992-93 with comparative figures for the previous four

years are noted in the table below.

	% increase (decrease)	1992-93	1991-92	1990-91	1989-90	1988-89
Annual Fee	(0.4)	\$778	\$781	\$678	\$601	\$593
County Libraries	16.0	79	68	62	58	54
Lawyers' Fund For Client Comp.	—	1	1	26	52	145
Legal Aid						
Admin. Expenses	21.7	292	240	185	183	188
Total	5.5	\$1,150	\$1,090	\$951	\$894	\$980

Looking ahead to 1993-1994, members of the Finance and Administration Committee have determined that it is important to establish clear objectives and a method for setting the annual fee. In order to meet this goal, a sub-committee chaired by Tom Bastedo was struck to determine the objectives that will guide the setting of fees for the next fiscal year. A report is expected to be brought before Convocation in November 1992, and subject to its adoption, will serve to initiate the budget process that will occur over the course of the following five months.

There are a number of significant factors over which the Law Society has little control which will influence both revenues and expenditures in 1993-94. Clearly, there is a serious risk that the Legal Aid levy will have to be raised to meet funding requirements created by increases in demand for certificates. The Law Foundation's ability to fund Law Society programs and Legal Aid will be hampered by decreases in revenue caused by the recession and low interest rates. As well, it is anticipated that the cost of operating the bar admission course will increase and will pose a significant challenge in 1993-94.

The Finance and Administration Committee is working towards a goal of a zero increase in fees for 1993-94 and is furthermore pursuing every avenue to effect a decrease in fees if possible.

Consolidated Errors and Omissions Insurance Fund

This statement consolidated the operations of the Lawyers' Professional Indemnity Company, the wholly-owned insurance company operated by the Law Society.

The lingering recession continued to result in greater than anticipated claims this year. In fact at the end of the Society's insurance year, December 31, 1991, reserves for unpaid claims climbed to \$100,591,000 from \$81,927,000 at June 30, 1990. This left the fund in a deficit position of \$22 million. As at June 30, 1992, the situation has ameliorated somewhat with reserves now at \$94,634,000 and the deficit in the fund standing at \$18,017,000.

Lawyers Fund for Client Compensation

The fund remains sound with a balance before reserves of \$31,439,000 compared to \$32,334,000 in 1991. While claims applications increased significantly during the year, totalling \$46,688,000 at the year end, when limits are applied the potential payout is \$20,338,000 leaving the fund with a surplus of \$11,996,000.

French Language Services

Chair: Patricia Peters, Q.C.

Launched on February 2, 1990, the French Language Services Programme is entering its fourth phase of implementation. Notable progress has been made in the provision of French language services in the areas of legal education, public and member information. Official documents and notices to the profession are published in French. Designated bilingual positions have been identified and are being filled as circumstances, space and budgets permit.

Session 3 of the French Language Skills Upgrading Programme was successfully completed by 20 participants. This programme was launched in April 1991 to provide bilingual Law Society staff with an opportunity to practise French and review grammar concepts on a regular basis; thus, enhancing their French language communications skills.

The Dial-A-Law Programme in French (Téléphone juridique) continues to attract a positive response from the public and the profession. The program is currently providing free legal information to approximately 300 French-language callers per month.

Funding for specific French language services and activities was secured in 1991 and 1992 from the Law Foundation of Ontario and the Department of the Secretary of State. Applications to these organizations have been renewed for 1993. As an example, the translation of bar admission course materials, which represents a significant portion of the French language services expenditure, was funded in large part through these contributions.

Insurance

Chair: Colin Campbell, Q.C.

Coverage for Mediators and Arbitrators

Effective January 1, 1992, the Lawyers' Professional Indemnity Company policy wording was amended to specifically provide full insurance protection for those services performed by an insured in his/her capacity as an arbitrator or mediator or as a patent or trademark agent.

Claims Activity

The twelve month period ending December 31, 1991 witnessed a dramatic increase in the frequency and severity of professional liability claims against members of the Law Society. Although it is too early to conclude that a sustainable downturn in new claims activity is occurring, the numbers and average values of claims reported during the first four months of 1992 are down considerably over the previous four month period. As at the end of April 1992, the net value of the 1,100 claims reported

was \$12.2 million. During the four month period ending December 31 1991, 1,500 new claims were reported having a net value of \$35 million.

Additional E & O Department Staff

To handle the increase in professional liability claims against Ontario lawyers, the number of permanent, full time claims examiners employed by the Society's Errors & Omissions Department has been expanded to thirteen from nine.

Lawyers Fund for Client Compensation

Chair: Clayton Ruby

During fiscal 1992, the Law Society awarded claims to 99 individuals who had suffered losses as a result of their lawyers' dishonesty. The awards, which are limited to \$100,000 per applicant, represent claims filed in respect of 19 lawyers. The total value of the claims paid amounted to \$2,968,000.

A total of 352 new claims alleging dishonesty on the part of 99 lawyers were received by the Lawyers Fund for Client Compensation during the year.

On June 30, 1992, the amount in the Lawyers Fund for Client Compensation was \$31.4 million. The outstanding claims still to be processed amounted to \$46.7 million (\$20.6 million with limits applied) an increase from \$21.3 million (\$11.7 million with limits applied) as at December 31, 1991. Due to the recession the monthly value of new claims has continued to increase.

After payment of grants and expenses of \$4.1 million it is estimated that there will be an encroachment on the capital of the Fund of approximately \$895,227 in the fiscal year. The levy will remain at \$1 per member for the 1993 fiscal year.

In order to reduce defalcations, a special report was approved in March 1992 which recommended changes to Regulation 573 respecting the "two lawyer rule". Subject to consultation with the profession, Regulation 573 will be amended so as to require members to provide more information as to their activity in private mortgage work. In addition, new forms have been drafted that will need to be signed by the investor-client and the lawyer in order to provide more disclosure to the client of the details of the mortgage investment. The two lawyer rule provides that a lawyer or anyone associated in the practice of law with that lawyer shall not act for both lender and borrower in a private mortgage transaction at arms length.

A private mortgage means any mortgage other than:

- one provided by a financial institution which deals in mortgages in the normal course of its activities;
- a vendor take back mortgage, ie. where the vendor takes a mortgage from the purchaser in a real estate transaction; and
- a mortgage made between persons who are not at arms length within the meaning of the *Income Tax Act* (Canada).

Legal Aid

Chair: Frances P. Kiteley

The Legal Aid Committee met for lengthy periods on nine occasions during the fiscal year to address a number of issues and concerns, namely:

- rising demand and costs during a time of government restraint
- the Ontario government's review of the Plan
- a joint federal-provincial evaluation of the Plan
- the absence of an increase to the tariff of fees paid to lawyers
- methods and strategies for increasing awareness of legal aid services among groups with special needs and interest
- the high cost of environmental cases
- the need for a policy on access to information and protection of privacy
- the Plan's 1992-93 budget.

Government of Ontario Review

Faced with the mounting costs of social programs during recessionary times, the Ontario government announced in October, 1991, that it would immediately review 16 publicly-funded bodies, including the Ontario Legal Aid Plan.

In November, the Law Society responded to the government's review by issuing a report entitled, "Legal Aid on Trial". The report highlighted the benefits of the current judicare program, emphasized the contributions of the independent bar to the success of legal aid during its 25 years of operation, discussed the pressures on the Plan caused by external sources (Askov, spousal assault initiatives, refugees, legislative changes and the recession) and commented on the Plan's continuing attempts to control costs and introduce new efficiencies.

The report reviewed the options for alternative service delivery and stressed the importance of maintaining clients' freedom to select counsel of their choice. The report concluded that the judicare system of delivery provided excellent, accessible service at a reasonable cost and expressed confidence that an independent evaluation would demonstrate that judicare was more cost effective than a staff lawyer system of legal services delivery.

The report called on the government to reaffirm its commitment to the 25-year partnership between the government and the legal profession in providing for the delivery of legal aid.

In order to identify further cost-saving measures Convocation directed the establishment of three tariff review sub-committees in family, criminal and immigration law to identify ways in which to decrease costs in the respective tariffs.

Tariff

No increases were made to the tariff during 1991-92, marking over four years since the last increase was granted in December, 1987. A recently commissioned Price Waterhouse survey of lawyers' overhead costs including such items as rent, equipment, and staff salaries found that the median total cost of operating a law

office amounted to \$59.94 per hour. The basic rate paid to lawyers through the Plan after the 5% statutory reduction is factored in is \$63.65. On an hourly basis, lawyers billing for certificate work receive a net hourly income of about \$3.71.

The Plan had requested a 10 per cent increase in the civil tariff and a five per cent increase in the criminal tariff to take effect in October, 1991. However, in October, the government announced that the effects of the recession had forced it to review and, where possible, contain or reduce expenditures in a number of areas. As part of its cost-reduction efforts, a review of the certificate side of the Plan was undertaken by the Ministry of the Attorney General and the question of increasing the tariff during the fiscal year became moot.

Wife Abuse Program

More than 2,000 financially-eligible victims of wife assault were provided with up to two hours each of free legal advice through the Plan's special Duty Counsel Form of Account. Circulation of the forms, which were previously available at shelters and transition houses throughout the province, was expanded to include all community legal clinics, student legal aid societies and government's 13 victim-witness assistance program offices.

Legal Education

Chair: P.S.A. Lamek, Q.C.

Bar Admission Course

The first complete cycle of the reformed Bar Admission Course ended on December 16, 1991, allowing 1,141 graduates from the first class of the new program to be admitted to the Bar in February, 1992. The third year of the reformed course began on May 19, 1992. The Bar Admission Course is almost entirely small-group oriented. The lecture component has been substantially reduced, and the current focus is now on problem solving, skills training and working through hypothetical client transactions.

The course continues to be offered in London and Toronto as well as in Ottawa where it is conducted in both French and English.

Articling

The Articling Subcommittee continues to oversee the implementation of Articling Reform. The focus of the reform is to enhance articling as an educational experience. This is accomplished by carefully screening articling placements, monitoring individual articling experiences through the filing of an education plan and related reports for each articling position, and providing an education program for articling principals. The first group of articling students participating in the reformed program began articling following completion of the third year of law school in 1992.

Continuing Legal Education

The Department offered 135 continuing legal education programs in the 1992 fiscal year at locations in Toronto, London, Ottawa, Orangeville, Barrie, Kenora and Thunder Bay. The course offerings, attended by a total of 6,153 registrants, consisted of a combination of live programs, video replays and hands-on computer training at the education facility at Osgoode Hall. Through co-operation with the County & District Law Associations, the CLE Department is continuing its efforts to improve its program offerings outside of the major urban centres.

A newly-constituted Continuing Legal Education Sub-Committee has been exploring the issue of mandatory continuing legal education. The sub-committee expects to produce a report in the fall of 1992.

Legislation & Rules

Chair: Maurice Cullity, Q.C.

The Legislation and Rules Committee reports that Convocation approved the following amendments to the regulations and rules:

Regulations under The Law Society Act

- Disclosure on Private Mortgages

Amendments were made to Regulation 573 that will require members to provide more information as to his/her activity in private mortgages and will require members and investor-clients to sign new forms providing disclosure to the investor-clients of the details of the private mortgages. Forms 2 and 3 which are filed annually by members were amended to reflect this change and new Forms 4 and 5 were drafted to provide for the disclosure to clients regarding the details of the private mortgage.

Rules under The Law Society Act

- Oath of Allegiance Optional

An amendment to the Rules was drafted to provide that the swearing of the Oath of Allegiance is optional when a candidate is called to the bar and enrolled as a solicitor.

Libraries & Reporting

Chair: Daniel J. Murphy, Q.C.

Ontario Reports

The Law Society continues to benefit from its contractual relations with Butterworths and Q.L. Systems for distribution of the *Ontario Reports* in printed and electronic format respectively. The Society benefits both financially and by enhancing

lawyers' competence through access to the latest cases from the courts of Ontario. In this regard, the new *Consolidated Index to the OR 2d series* authorized by the Society and published by Butterworths will improve research access to the 75 volumes of case law covering the past 17 years. As well, Search-Law continues to provide access to the benefits of electronic legal research for lawyers in varying situations, ie. from small firms in county towns to large firms in urban centres. Finally, Butterworths sponsored the second annual Symposium on Law Reporting in June 1992, which was attended by lawyers, librarians and publishers, and featured a luncheon address by his Honour Judge Fontana of Ottawa.

Search Law

The Society's Search Law service conducted 1,500 searches on behalf of lawyers, judges and articling students during the past year.

Search Law began its operations in 1983. The primary users of the service are lawyers in firms of five or less persons. Sixty per cent of searches are conducted for users outside Toronto, and the remaining 40 per cent for Toronto-area users. A new Search Law facility was established in Ottawa this year.

County Libraries

The Law Society is very fortunate that the substantial grant from the Law Foundation of Ontario for county libraries will be maintained for the fiscal year 1992-93. The county library levy within the Law Society's annual practice fee was increased by \$11 for lawyers in private practice, and the increased revenue generated thereby will assist Ontario's 47 county law associations to cover the substantial increases in annual inflation rates on the cost of books. In addition, the associations have increased their local library fees such that the provincial median average of local fees outside Metropolitan Toronto increased 10 per cent to \$200 for 1992, and is expected to increase by the same percentage for 1993.

Professional Conduct

Chair: Marc J. Somerville, Q.C.

A new rule addressing the issue of sexual harassment was drafted by the Professional Conduct Committee and approved by Convocation in June 1992. Rule 27 on Sexual Harassment reads:

Sexual harassment of a colleague, of staff, of clients, or of other persons, in a professional context, is professional misconduct.

Members of the profession will receive a copy of the rule and the accompanying commentary in the September issue of *The Adviser*.

During the year, the Committee invited members of the profession to comment on proposed revisions to Rule 13 regarding the reporting of wrongdoing to the Law Society and to Rule 5 dealing with conflicts of interest. This exercise will continue

into 1993 as part of a larger effort involving a complete review of the Rules of Professional Conduct. The Rules will be re-examined and necessary revisions will be made in order to make the Rules more meaningful and helpful to contemporary practitioners.

A sub-committee has been closely monitoring the results of the Federation of Law Societies Committee that was constituted to examine the implications of the 1990 *Martin v. Gray* ruling of the Supreme Court of Canada which addressed problems created by the migrating lawyer. It may be that an agreement by all the provincial and territorial law societies will result in the passage of a uniform rule applicable throughout Canada.

The Committee is also working to propose a solution to the problem of misdirected communications accidentally received by a lawyer on the other side. The committee is considering a number of issues, namely: what should be done with the communication; whether it should be returned to the other side; and, whether the opposing lawyer should be prohibited from making use of the information contained in the communication. This issue has been discussed by the Committee on four separate occasions. The problem raises both legal and ethical issues and the Committee anticipates publishing a practice direction that will be of assistance to practitioners within the next six months.

Professional Standards

Chair: Roger Yachetti, Q.C.

The Professional Standards Committee administers the activities of the Practice Advisory Service and the Professional Standards Department. The Committee's mandate is to define, maintain and enforce competence among members; this mandate applies to both individual members and the profession as a whole.

Sub-committees composed of Benchers and experienced counsel from across the province have drafted checklists which have been published for use by practitioners in the areas of real estate and criminal defence. Checklists for use in family law and wills and estates are expected to be finalized and ready for publication by the fall of 1992. Sub-committees have also been established to draft checklists for use in civil litigation and securities law.

The Committee oversees the Society's participation in the LINK Lawyers' Assistance Programme, a joint initiative with the CBA-O and other groups which provides counselling and referrals to lawyers experiencing difficulty with stress, substance abuse and other problems. In fiscal 1992, 137 members of the practising bar had sought LINK'S assistance. Funding for LINK is provided by the Society and was budgeted at \$145,000.

Convocation has recently addressed the issue of requalification of members who have not been engaged in the practice of law for over five years. The Professional Standards Committee together with representatives from the bar and other Law Society committees will be addressing this issue in the coming year and

making recommendations with respect to requalification requirements and procedures.

Practice Review Program

The Practice Review Program is a remedial initiative designed to assist individual lawyers who have demonstrated an inability to deliver competent legal services to their clients. It is a form of voluntary peer review whereby participating lawyers are reviewed by members with similar practice backgrounds. Following guidelines developed by the Professional Standards Committee, the reviewer identifies the causes of the practice deficiencies and recommends a remedial program. Department staff then monitor the participant's progress in implementing the recommendations, and provide additional support and assistance.

Referrals to the Programme are received from within the Society, through departments such as Complaints, Discipline, Audit and Errors & Omissions, and from external sources such as County and District Law Associations and members of the practising bar. These referrals have resulted in 135 lawyers being invited to participate in the Programme.

Practice Advisory Service

The Practice Advisory Service is a confidential service which provides assistance to members of the profession in both practice and ethical areas. The service responds to an average of 30 calls per day. Telephone inquiries are generally returned within 24 hours of the initial call. The most frequent inquiries concern the following matters:

- Conflict of Interest
- Privilege and Confidentiality
- Litigation-generally
- Real Estate-generally
- Advertising
- Fees
- Mortgage Transactions
- File Transfer between Solicitors
- Law Society Act and Regulations
- Law Practice Employment

Research & Planning

Chair: Thomas Bastedo

Strategic Planning Conference

The Research and Planning Committee is organizing a Strategic Planning Conference for Benchers of the Law Society, to be held September 25-26, 1992. The title of the conference is "Professionalism in the 90's: Responding to Social and Ethical Change".

The conference will consider the impact of social change upon the concept of the lawyer as professional. It is proposed that this should lead to an examination of the profession's ability to meet the public need for legal services and a review of the manner in which the Law Society regulates the conduct and practice of lawyers. A central objective of the conference will be to draft a series of recommendations for practical action by the Law Society.

Dispute Resolution Subcommittee

The Dispute Resolution Subcommittee, which has been studying the role of the Law Society in relation to alternative methods of dispute resolution, has prepared a position statement as follows:

The Sub-committee recognizes that lawyers are involved in the prevention and resolution of disputes. Negotiation and litigation are the traditional dispute resolution tools employed by lawyers but are not the sole methods. In recent years, increasing attention has been focused on a broad range of dispute resolution tools including mediation, arbitration, mini-trials, pre-trials and private adjudication. The Sub-committee is of the view that lawyers should be encouraged to become familiar with these and other tools, to make better use of such tools and, in appropriate cases, to serve as third-party neutrals.

The Subcommittee is of the view that action should be taken by the Law Society to accomplish the following:

1. To encourage and promote excellence in dispute resolution within the legal community.
2. To ensure that lawyers are familiar with, and have access to, a wide range of dispute resolution services, procedures, techniques and tools.
3. To ensure that lawyers are equipped with the information necessary to assess the appropriate use of various procedures, techniques and tools of dispute resolution.
4. To facilitate involvement of lawyers in dispute resolution by reducing such barriers as may exist.
5. To provide training in dispute resolution techniques.
6. To encourage lawyers to acquire training
 - in the drafting of adequate dispute resolution clauses
 - as counsel in situations where mediation or arbitration is employed
 - as mediators and arbitrators.
7. To support the identification of dispute resolution services offered by persons who are appropriately trained.
8. To promote public awareness of dispute resolution services and the roles of lawyers in the provision of those services.

In April 1992, Convocation approved that the sub-committee proceed in accordance with its position statement. The sub-committee has also prepared a

Short Glossary of Dispute Resolution Terms and a Condensed Spectrum of Dispute Resolution Processes. It is intended that these will be distributed to all members of the Law Society together with information explaining the opportunities for greater use of ADR by lawyers.

Pro Bono Lawyer Referral Service

The Pro Bono Lawyer Referral Service pilot project continues to operate in the County of Middlesex and the Regional Municipality of Hamilton-Wentworth. Members of the two local Law Associations have volunteered to provide legal services free of charge to eligible non-profit organizations. The scheme is being operated through the Law Society's toll-free Lawyer Referral Service telephone system. The objective of the pilot project is to determine the feasibility of establishing a formal, province-wide, centralized *pro bono* delivery system under which organizations qualifying for *pro bono* legal services would be linked with lawyers willing to offer their services free of charge. The pilot project will be evaluated early in 1993.

Unauthorized Practice

Chair: Robert J. Carter, Q.C.

The Unauthorized Practice Department of the Law Society of Upper Canada continues to actively investigate and prosecute instances of unauthorized practice of law. Counsel obtained eight convictions during the last fiscal year and 12 matters are under investigation.

In June 1992, Convocation adopted a submission responding to the Report of the Attorney General's Task Force on Paralegals which was released in November 1990. The Law Society's submission to the Attorney General emphasized that when addressing the matter of paralegals the fundamental issue to be considered was the protection of the public. The public interest was to be safeguarded by a rigorous determination of the specific legal tasks that independent paralegals could properly perform within a framework of appropriate education and training and effective regulation and accountability.

Women in the Legal Profession

Chair: Denise Bellamy

Model Workplace Policy on Sexual Harassment

In January 1992, on the recommendation of the Women in the Legal Profession Committee, Convocation adopted a Recommended Personnel Policy Regarding Employment-Related Sexual Harassment for use within the Law Society and for distribution to interested members of the profession. Copies of the Recom-

mended Personnel Policy were sent to the managing partners of all law firms in Ontario and have also been made widely available on request.

Sexual harassment is a complex problem that raises contentious issues and the committee clearly indicated that the procedures recommended in its personnel policy are not the only approach that can be taken. The committee intends to review the Recommended Personnel Policy in the light of experience and has indicated that it would welcome comments and suggestions from members and their firms.

The committee has also referred a draft Rule of Professional Conduct on sexual harassment to the Professional Conduct Committee. The draft rule is followed by a commentary defining sexual harassment and giving examples of the types of behaviour which may constitute sexual harassment. The definition and the examples employ wording from the Recommended Personnel Policy.

Parental Responsibilities

In order to follow through with some of the recommendations in the Transitions Report, a subcommittee has been established to consider the broad issue of parental responsibilities and their impact on the legal profession.



Financial Statements

Auditor's Report

To the Members of The Law Society of Upper Canada

We have audited the balance sheet of The Law Society of Upper Canada as at June 30, 1992 and the General Fund statements of revenue and expenses, members' equity and changes in financial position and the Consolidated Errors and Omissions Insurance Fund and Lawyers Fund for Client Compensation statements of revenue and expenses and balance of fund for the year then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Society as at June 30, 1992 and the results of its operations and the changes in its financial position for the year then ended in accordance with generally accepted accounting principles.

Toronto, Canada,
August 28, 1992.

Ernst & Young

Chartered Accountants

Balance Sheet

[in thousands of dollars]

As at June 30	1992 \$	1991 \$
ASSETS		
General Fund		
Current		
Cash and short-term investments, at lower of cost and market value [approximate market value - \$1,551; 1991 - \$1,678]	1,535	1,669
Accounts receivable	2,993	1,684
Interfund accounts receivable	291	163
Inventory	192	224
Prepaid expenses and deferred charges	100	288
Total current assets	5,111	4,028
Fixed assets		
Land, buildings and improvements [notes 9 and 10]	25,788	23,494
Furniture and equipment	4,414	3,760
	30,202	27,254
Less accumulated depreciation and amortization	9,679	8,633
Net fixed assets	20,523	18,621
Total assets - General Fund	25,634	22,649
Consolidated Errors and Omissions Insurance Fund [note 5]		
Cash and short-term investments, at lower of cost and market value [approximate market value - \$26,111; 1991 - \$31,270]	25,951	30,839
Deductible portion of claims paid, due from members	2,716	1,888
Interest and other receivables	4,069	2,901
Portfolio investments, at amortized cost [market value - \$66,572; 1991 - \$56,663]	62,715	56,532
Other assets	483	46
Total assets - Consolidated Errors and Omissions Insurance Fund	95,934	92,206
Lawyers Fund for Client Compensation [note 6]		
Cash and short-term investments, at lower of cost and market value [approximate market value - \$8,981; 1991 - \$7,107]	8,865	7,086
Interest and other receivables	637	561
Portfolio investments, at amortized cost [market value - \$22,860; 1991 - \$24,715]	22,276	24,692
Fixed assets [net]	7	6
Total assets - Lawyers Fund for Client Compensation	31,785	32,345
Total assets administered	153,353	147,200

See accompanying notes

	1992 \$	1991 \$
LIABILITIES AND MEMBERS' EQUITY AND FUND BALANCES		
General Fund		
Current		
Bank loan and overdrafts [note 11]	12,797	6,500
Deposits held	—	93
Accounts payable and accrued liabilities	2,653	3,595
Deferred revenue [note 4]	638	1,900
Total current liabilities	16,088	12,088
Non-current liabilities		
Mortgage payable	—	1,182
Total liabilities	16,088	13,270
Total members' equity	9,546	9,379
Total liabilities and members' equity - General Fund	25,634	22,649
Consolidated Errors and Omissions Insurance Fund [note 5]		
Accounts payable and accrued liabilities	6,348	2,936
Interfund accounts payable	—	71
Prepaid levies and other deferred revenue	12,969	8,678
Reserve for unpaid claims	94,634	81,927
Balance of fund	(18,017)	(1,406)
Total liabilities and balance of fund - Consolidated Errors and Omissions Insurance Fund	95,934	92,206
Lawyers Fund for Client Compensation [note 6]		
Accounts payable	55	9
Interfund accounts payable	291	2
Balance of fund	31,439	32,334
Total liabilities and balance of fund - Lawyers Fund for Client Compensation	31,785	32,345
Total liabilities and members' equity and fund balances	153,353	147,200

On behalf of the Convocation:



Treasurer



Chair of Finance Committee

General Fund

Statement of Revenue and Expenses

[in thousands of dollars]

Year ended June 30	1992 \$	1991 \$
REVENUE		
General		
Annual fees	16,197	13,795
Legal aid levy and interest - 1991/92	5,150	4,071
- prior year surplus	815	631
County libraries - fees	1,410	1,260
- The Law Foundation of Ontario grant	929	867
Investment income	366	972
Catering	642	621
Library user fees	1,024	836
Call and admission fees	290	394
Other grants	211	258
Miscellaneous	421	182
Certification	27	37
Total general revenue	27,482	23,924
Bar Admission Course		
Tuition and book fees	3,187	3,352
Grants - Province of Ontario	—	938
- The Law Foundation of Ontario	2,030	1,532
Total Bar Admission Course [note 2]	5,217	5,822
Continuing legal education [note 2]	1,467	1,298
Total revenue	34,166	31,044
EXPENSES		
General		
Legal Aid Plan share of assessable administrative costs	5,965	4,702
Libraries and reporting	2,444	2,314
County libraries	2,439	2,298
Secretariat	2,346	2,138
Finance and administration	2,237	1,892
Discipline	814	804
Complaints	1,557	1,295
Facilities	2,370	1,990
Audit	1,785	1,865
Communications	1,408	1,500
Catering	687	625
Unauthorized practice	247	356
Professional conduct	165	158
Heritage	264	293
County and district liaison	61	59
Admissions	255	202
French language services	128	114
Certification	150	138
Printing	23	44
Practice advisory	229	—
Other committees [note 12]	408	311
Interest [note 9]	628	—
Total general expenses	26,610	23,098
Bar Admission Course [note 2]	5,588	5,822
Continuing legal education [note 2]	1,801	1,951
Total expenses	33,999	30,871
Excess of revenue over expenses for the year	167	173

See accompanying notes

General Fund
Statement of Members' Equity
[in thousands of dollars]

Year ended June 30	1992	1991
	\$	\$
Balance, beginning of year	9,379	9,206
<i>Excess of revenue over expenses for the year</i>	167	173
Balance, end of year	9,546	9,379

General Fund
Statement of Changes in Financial Position
[in thousands of dollars]

Year ended June 30	1992 \$	1991 \$
OPERATING ACTIVITIES		
Excess of revenue over expenses for the year	167	173
Item not affecting cash		
Depreciation and amortization	1,046	720
Other operating sources (uses)		
Accounts receivable	(1,437)	46
Inventory	32	78
Prepaid expenses	188	10
Deposits held	(93)	(272)
Accounts payable and accrued liabilities	(942)	717
Net deferred items	(1,262)	(470)
Cash provided by (used in) operating activities	(2,301)	1,002
INVESTING ACTIVITIES		
Fixed asset additions	(2,948)	(11,677)
Cash used in investing activities	(2,948)	(11,677)
FINANCING ACTIVITIES		
Mortgage discharge	(1,148)	—
Mortgage repayments	(34)	(34)
Cash used in financing activities	(1,182)	(34)
Net change in cash and short-term investments	(6,431)	(10,709)
Cash position, beginning of year	(4,831)	5,878
Cash position, end of year	(11,262)	(4,831)
Cash position represented by		
Cash and short-term investments	1,535	1,669
Bank loan and overdrafts	(12,797)	(6,500)
	(11,262)	(4,831)

See accompanying notes

Consolidated Errors and Omissions Insurance Fund

Statement of Revenue and Expenses and Balance of Fund

[in thousands of dollars]

Year ended June 30	1992 \$	1991
REVENUE		
Members' levies	34,376	28,083
Investment income	8,328	8,810
Total revenue	42,704	36,893
EXPENSES		
Provision for claims, defence and related costs	48,259	42,265
Insurance premium	7,256	4,439
Salaries	1,673	1,192
Administration [note 5]	1,349	1,569
Brokerage fees	125	100
Rent	422	230
Practice advisory services	231	358
Total expenses	59,315	50,153
Deficiency of revenue over expenses for the year	(16,611)	(13,260)
Balance of fund, beginning of year	(1,406)	11,854
Balance of fund held for future claims and expenses, end of year	(18,017)	(1,406)

**Lawyers Fund for Client Compensation
Statement of Revenue and Expenses and
Balance of Fund**

[in thousands of dollars]

Year ended June 30	1992 \$	1991 \$
REVENUE		
Investment income	3,031	3,114
Annual levy	43	569
Total revenue	3,074	3,683
EXPENSES		
Grants paid, less recoveries	2,968	542
Counsel fees, referee fees and administrative costs	706	354
Salaries and benefits	241	216
Reports and sundries	54	38
Total expenses	3,969	1,150
Excess (deficiency) of revenue over expenses for the year	(895)	2,533
Balance of fund, beginning of year	32,334	29,801
Balance of fund, end of year	31,439	32,334

See accompanying notes

Notes to Financial Statements

June 30, 1992

1. Significant Accounting Policies

The Law Society of Upper Canada [the "Society"] uses fund accounting, whereby the General Fund is used to account for the Society's various operations, the Lawyers Fund for Client Compensation for its compensation grants, and the Consolidated Errors and Omissions Insurance Fund for insurance claims [partly self-insured] and for administrative costs and adjusters' fees. The Consolidated Errors and Omissions Insurance Fund includes a wholly-owned subsidiary, the Lawyers' Professional Indemnity Company.

Short-term investments are stated at the lower of cost and market value.

Portfolio investments held for the Lawyers Fund for Client Compensation and the Consolidated Errors and Omissions Insurance Fund are recorded at cost, net of amortization of premiums and discounts. Premiums and discounts from the par value are amortized over the term to maturity.

Inventory is valued at the lower of cost and net realizable value.

Land, buildings, furnishings and major alterations are presented at cost net of accumulated depreciation and amortization and grants. Depreciation and amortization are charged to expense on a straight-line basis over the estimated useful lives of the assets as follows:

Buildings	30 years
Building and leasehold improvements	10 years
Furniture and office equipment	3 to 5 years

Depreciation on major additions commences upon the asset being placed in service.

Minor capital expenditures, including the purchase of books for the Great Library, are expensed in the year of acquisition. An allocation is made to members' equity for the net investment in fixed assets for information purposes.

The reserve for unpaid claims includes estimates for outstanding case reserves [including adjuster, legal and other related fees] and a supplemental amount for adverse claim development. It is presented net of estimated member deductibles and insurance recoveries, and anticipated investment income. An independent actuary is periodically engaged to perform an actuarial study using historical experience.

Administrative expenses include only those salaries and other expenses not allocated directly to specific activities.

Expenses are shown applied to the respective committees net of intercommittee and interfund revenues.

Grants from the Lawyers Fund for Client Compensation are recognized when the amount is determined. The work of the Society is dependent on the voluntary services of the benchers, lay benchers, and other members of the profession. These services are received gratuitously, therefore, no value has been included in these financial statements.

The Society is empowered to administer the Legal Aid Plan and to maintain the Legal Aid Fund in accordance with the Legal Aid Act. The Society reports annually to the Attorney General of Ontario on the accounts and financial transactions of the Legal Aid Fund. The financial statements of the Legal Aid Fund are subject to audit by the Provincial Auditor, and are not included in these financial statements. The activities of the Advocates' Society Institute, a related organization, are not incorporated into these financial statements.

2. Legal Education

Bar Admission Course Grants

The Society received a grant from The Law Foundation of Ontario [the "Law Foundation"] for the Bar Admission Course to cover the operating deficit in excess of \$371,000. The Society also received a special grant from the Law Foundation for \$940,000 that replaced lost funding from the Province of Ontario.

		Authorized \$	Utilized [000's] \$
1991/1992 operating deficit	up to a maximum of	1,303	811
Special grant		940	940
French language translation of courses		160	37
			1,788
Less amount received during the year			943
Amount receivable at June 30, 1992			845

The unutilized portion of the French language translation courses grant is available to offset expenditures.

Also utilized throughout the year were prior year's grants that the Law Foundation allowed to be carried forward. These amounts totalled \$242,000.

Legal education operating results

The results of operations of the Society's legal education programs are as follows:

	Bar Admission Course \$	Continuing legal education [000's] \$
Revenue - tuition and book fees	3,187	1,467
- Law Foundation grants - current	1,788	—
- carried forward	242	—
Expenses	(5,588)	(1,801)
	(371)	(334)

3. Law Foundation — General Grants

County and district library grant

The Society obtained a grant of \$929,000 from the Law Foundation on behalf of county and district libraries.

Other grants

A further \$205,000 was received from the Law Foundation to support Dial-a-Law, Heritage, the Great Library book preservation and County Library Capital grants.

4. Deferred Revenue

Deferred revenue consists of the following:

	1992	1991
	\$	[000's] \$
Legal aid	125	940
Tuition fees	—	42
Education - employment placement	57	66
French language services	—	250
Articling matching programme	16	24
Heritage	155	191
Research and Planning	16	18
Articling Reform	—	59
Library		
Levies	120	120
Law Foundation grants	149	190
	638	1,900

Annual fees for 1992 included an amount of \$240 [1991 - \$175] per member as the Society's contribution to the administration of the Legal Aid Plan. The designated legal aid deferred revenue represents the difference between the accumulated funds collected from members and the statutory contributions to the Legal Aid Plan through to its fiscal year ended March 31, 1992.

5. Consolidated Errors and Omissions Insurance Fund

The Society's current errors and omissions insurance program insures members against claims for errors discovered from the calendar year 1977 onwards, with claims being covered for 1983 to present on the following basis:

	1989 through 1992	1987 through 1988	1983 through 1986
[000's]	\$	\$	\$
Borne by			
Consolidated Errors and			
Omissions Insurance Fund,			
including members'			
deductible	first 250	150	100
Insurer	next 750	450	400
Total coverage per occurrence	1,000	600	500

A separate fund is established each year to provide for claims reported to the Society during that year. The maximum fund loss experience for any year, up to and including 1989, is limited to a stop loss agreement with the insurer. There is no stop loss agreement with the insurer for the fund years from July 1, 1990 to December 31, 1991. For the fund year commencing January 1, 1992, in addition to the \$250,000 per occurrence, the Society is liable for an aggregate of \$2,500,000 of losses incurred in excess of \$250,000 plus a further 10% of all losses above \$250,000 once the initial \$2,500,000 limit has been reached.

The Errors and Omissions levies are determined annually. The amounts are determined based on historical experience and are adjusted for any adverse claims experience.

An analysis of the reserve for unpaid claims is as follows:

	1992	1991
	\$	[000's] \$
Gross ultimate liability	224,582	193,517
Estimated recoveries from insurers	(48,655)	(36,700)
Estimated member deductibles	(31,039)	(24,974)
	144,888	131,843
Anticipated investment income, at a rate of 8%	(50,254)	(49,917)
Net reserve	94,634	81,926

The change in reserves set aside to meet unpaid claims is as follows:

	1992	1991
	\$	[000's] \$
Reserve balance, beginning of year	81,926	61,439
Provision for unpaid claims	48,259	42,265
Investment income	(19,094)	(13,294)
Payments, net of investment income	(16,457)	(8,484)
Reserve balance, end of year	94,634	81,926

Members may obtain bank loans to enable them to repay their liability for the deductible portion of claims paid. The Society has guaranteed these loans. Loans outstanding at June 30, 1992 amount to \$81,000 [1991 - \$42,000].

Administration

The schedule below shows comparative figures for 1992 and 1991:

	1992	1991
	\$	[000's] \$
Lawyers' Professional Indemnity Company	182	530
General Fund charges:		
Finance administration charges	333	317
Building and grounds charges	50	331
Printing and stationery	46	53
CLE related programme	1	35
Postage	91	65
Furniture and equipment	24	59
Provision for taxes	409	(15)
Office supplies	29	22
Other	184	172
	1,349	1,569

6. Lawyers Fund for Client Compensation

Convocation may make grants from the Lawyers Fund for Client Compensation in order to relieve or mitigate loss sustained by any person arising mainly from dishonesty on the part of a member of the Society.

Annual levies for this fund vary from year to year to reflect the anticipated grants and the balance in the fund. At the year end, the total of outstanding claim applications was approximately \$46,688,000 [1991 - \$21,307,000]. Grants are made within the discretionary limits approved by Convocation. Strict application of the applicable limits to existing claims indicate that the maximum grants under the program would aggregate \$20,338,000 [1991 - \$11,705,000].

7. Endowment Funds

The Society administers endowment funds from earned income of which prizes, bursaries and gifts are made annually. At the year end, the endowment funds consisted of cash, investments and interest and other receivables of \$472,000 [1991 - \$442,000], of which \$237,000 was capital and the balance of \$235,000 [1991 - \$206,000] was unexpended income. Prizes, bursaries and gifts of \$5,000 [1991 - \$17,000] were paid during the year.

8. Pension Plan

The Society maintains a defined contribution pension plan for all eligible employees. The plan covers 218 employees of the Society and 312 employees at the offices of the Legal Aid Plan. The Society matches its employees' contributions to the plan.

The Society's annual pension expense [excluding Legal Aid] for 1992 amounted to \$438,000 [1991 - \$315,000].

9. Commitments

Operating leases

The Society is committed to monthly lease payments for property and computer facilities under leases having various terms up to August 2002. Aggregate monthly lease payments over the next five years and in total are as follows:

	1997 and 1993	1994	1995	1996 thereafter		Total
[000's]	\$	\$	\$	\$	\$	\$
General Fund						
Bar Admission Course, London, Ontario	135	150	157	165	984	1,591
Computer equipment	85	85	85	—	—	255
	220	235	242	165	984	1,846
Consolidated Errors and Omissions Insurance Fund						
20 Queen St. W.	139	139	139	139	975	1,531
	359	374	381	304	1,959	3,377

Osgoode Hall renovations

During the year, renovation and construction was completed at the Society's offices at Osgoode Hall at a total cost of \$17,024,000.

Details of these costs are as follows:

	[000's]	\$
Education Department and other renovations and floor additions	16,548	
Roof repair	168	
East entrance, fence renovations and repairs	308	
	17,024	

Interest expense incurred to finance Osgoode Hall renovations has been capitalized.

10. Insured Value of Society Assets

The buildings and equipment of the Society are valued for insurance purposes at an estimated replacement cost of \$75,000,000. The books and records located at the Great Library are valued for insurance purposes at an estimated replacement cost of \$18,793,000. The books and records located at county and district libraries are valued for insurance purposes at an estimated replacement cost of \$19,643,000.

11. Bank Loan

The Society has arranged for a long-term banking facility to finance the building renovation program. Within the terms of this facility it is currently on a short-term basis but the Society has the option of converting this into a five-year term at any time.

12. Other Committees

Other committee expenses consist of the following:

	1992		1991
	\$	[000's]	\$
Professional Standards	348		213
Research and Planning	39		51
Women in the Legal Profession	12		37
Equity in the Legal Profession	5		—
Legislation and Rules	4		10
	408		311

13. Comparative Financial Statements

The comparative financial statements have been reclassified from statements previously presented to conform to the presentation of the 1992 financial statements.



Law Society Medal Recipients

Six distinguished members of the Bar were awarded the Law Society medal in 1992. This honour, established by the Benchers in 1984, is granted to members of the Society who perform their lawyering tasks with such diligence and effectiveness and so much to the benefit of the profession as to be deserving of special recognition.

John L. Agro, Q.C. was called to the Bar in 1949. Mr. Agro made a significant contribution to the community of Hamilton by chairing the Hamilton Harbour Commission and participating in numerous other civic organizations. A leader of the local bar, he took great interest both in training and serving as a mentor to junior members.

Patrick G. Furlong, Q.C. was called to the Bar in 1952. Mr. Furlong has served the Law Society of Upper Canada as a bencher for 16 years. In this capacity he has been Chair of various committees including Insurance, Discipline Policy, Legislation and Rules. In addition he has been active in his community serving as President of the University of Windsor and on numerous other boards and committees. He is also a past president of the CBAO.

Bert Raphael, Q.C. was called to the Bar in 1960. Among his many contributions to the profession and the community, his work on behalf of Soviet Jewry, not only in court proceedings but in personal interventions, deserves special attention. He has also given generously of his time to the important work of the Reena Foundation.

Margaret Ross was called to the Bar in 1976. A past president of the Ottawa-Carleton Law Association, she has been active in many legal organizations and

has made a significant contribution to continuing legal education. She is a member of the Ontario Law Reform Commission and is widely regarded as a leader of the Ottawa bar.

Garry D. Watson, Q.C. was called to the Bar in 1968. Mr. Watson has served as a professor of law at Osgoode Hall Law School for 20 years, being best known for his work in civil procedure. He had a central role in drafting the Rules of Civil Procedure that was introduced in Ontario on January 1, 1985. His text on the subject is one of the standard reference works in the field. Mr. Watson has pioneered trial advocacy training in Canada. He has also given generously of his time to various Law Society committees over many years.

Gerard B. Weiler, Q.C. was called to the Bar in 1934. Mr. Weiler has served the community of Thunder Bay in many ways, most notably as Chancellor of Lakehead University and as Chairman for 25 years of the Area Committee for Legal Aid.



Convocation Membership

Changes in the Membership of Convocation

Allan Rock was elected Treasurer in June 1992 replacing James Spence who had served as the Law Society's Treasurer since 1990.

S. Casey Hill became a benchler following Mr. Rock's election in June 1992.

John Ground was appointed to the Ontario Court (General Division) in November 1991.

Lee Ferrier was appointed to the Ontario Court (General Division) in November 1991.

Stephen Goudge of Toronto became a benchler in October 1991 replacing Sandra Chapnik upon her appointment to the Ontario Court (General Division).

Anne Marie Stewart resigned as lay benchler in March 1992 and was replaced by Hope Sealy.

His Royal Highness the Prince of Wales was appointed an honorary benchler in October 1991.

The Honourable Lincoln Alexander was appointed honorary benchler in June 1992.

Benchers of The Law Society of Upper Canada (as at June 30, 1992)

Treasurer

Allan M. Rock, Q.C.

Elected Benchers

Thomas G. Bastedo

Denise E. Bellamy

Donald H.L. Lamont, Q.C., LSM

Joan Lax

Rino C. Bragagnolo, Q. C.
 Lloyd Brennan, Q.C.
 Colin L. Campbell, Q.C.
 Robert J. Carter, Q.C.
 Paul D. Copeland
 Maurice C. Cullity, Q.C.
 Carole Curtis
 E. Susan Elliott
 Philip M. Epstein, Q.C.
 Abraham Feinstein, Q.C.
 Neil Finkelstein
 Stephen T. Goudge, Q.C.
 Michael G. Hickey, Q.C.
 Stephen Casey Hill
 Kenneth E. Howie, Q.C.
 Frances Kiteley
 Virender Krishna, Q.C.
 Paul S.A. Lamek, Q.C.

Appointed Lay Benchers

Netty Graham
 Shirley O'Connor

Ex-Officio Benchers

The Hon. John D. Arnup, Q.C.
 F. M. Cass, Q.C.
 Ronald W. Cass, Q.C.
 John T. Clement, Q.C.
 Austin M. Cooper, Q.C.
 G.H.T. Farquharson, Q.C.
 Stanley E. Fennell, Q.C.
 Patrick G. Furlong, Q.C. LSM
 Edwin A. Goodman, Q.C.
 The Hon. Howard G. Hampton,
 Attorney General for Ontario
 Gordon F. Henderson, Q.C.
 The Hon. W.G.C. Howland, Q.C.
 Robert Kemp-Welch, Q.C.

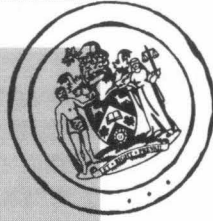
Honourary Benchers

Her Majesty Queen Elizabeth, The Queen Mother
 His Royal Highness Prince Charles, Prince of Wales
 The Right Honourable Margaret Thatcher
 Kenneth Jarvis, Q.C. RCA
 The Honourable Lincoln M. Alexander, Q.C.

Samuel Lerner, Q.C.
 Earl J. Levy, Q.C.
 Ronald D. Manes
 Colin D. McKinnon, Q.C.
 Fatima Mohideen
 Daniel J. Murphy, Q.C.
 Ross W. Murray
 Dennis R. O'Connor, Q.C.
 Karen Julaine Palmer
 Patricia J. Peters, Q.C.
 Clayton C. Ruby
 David W. Scott, Q.C.
 Marc J. Somerville, Q.C.
 Harvey T. Strosberg, Q.C.
 Robert C. Topp
 J. James Wardlaw, Q.C.
 Mary P. Weaver, Q.C.
 Roger D. Yachetti, Q.C.

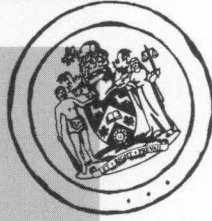
Nora Richardson
 Hope Sealy

The Hon. Allan F. Lawrence, P.C., Q.C.
 Laura L. Legge, Q.C.
 H.F. McCulloch, Q.C.
 The Honourable G. Arthur Martin, Q.C.
 Brendan O'Brien, Q.C.
 P.B.C. Pepper, Q.C., LSM
 Alan W. Pope, Q.C.
 J.J. Robinette, Q.C.
 Arthur R.A. Scace, Q.C.
 Ian G. Scott, Q.C.
 James M. Spence, Q.C.
 Nathan Strauss, Q.C.
 Stuart Thom, Q.C.



Senior Management

<i>Title</i>	<i>Telephone</i>
<i>Under Treasurer</i> Donald A. Crosbie, Q.C.	947-3308
<i>Secretary</i> Richard F. Tinsley	947-3344
<i>Deputy Secretary</i> Margaret J. Angevine	947-3301
<i>Director, Finance</i> David Crack	947-3322
<i>Director, Insurance</i> Lin Whitman	947-3431
<i>Director, Education</i> Alan Treleaven	947-3413
<i>Chief Librarian</i> Glen Howell	947-3397
<i>Director, Legal Aid</i> Robert L. Holden	979-2352



Annual General Meeting, 1992

Wednesday, November 11, 1992

Convocation Hall

Osgoode Hall, Toronto

5 p.m.

Order of Business

- Minutes of the previous annual general meeting
- Report of the work of the Society and the committees of the Society and Convocation
- Presentation of financial statements
- Matters of professional interest that are directly related to the work of the Society
- Motions

Motions to be made at Annual General Meeting

Whereas:

1. Subsection 14 (1) of the *Law Society Act* ("Act") provides that every member who has been or is elected to the office of Treasurer is an *ex officio* Benchers with all the rights and privileges of an elected Benchers;
2. Although it is not specified in the legislation or rules, one of the rights of elected Benchers is the right to vote in Convocation;
3. It follows that any former or current Treasurer, whether or not elected in the most recent Benchers election, may vote in Convocation;
4. By virtue of section 12 and subsection 14 (1) of the Act, all *ex officio* Benchers, with the exception of former and current Treasurers and the current Attorney General for Ontario, are precluded from voting in Convocation;
5. Benchers who meet and vote in Convocation are charged with the responsibility of making decisions with respect to the governance of the legal profession and the protection of the public interest;

6. The Law Society of Upper Canada ("Law Society") has been striving towards more open, accountable and democratic procedures;
7. It is submitted that the democratic principle of the accountability of the governing body of the Law Society to the public and to the members of the Law Society is compromised when former and current Treasurers who have not been duly elected in the most recent Benchers election have voting rights in Convocation; and
8. It is submitted that adherence to a fully democratic process is essential if the Law Society is to govern itself responsibly in the public interest.

Therefore it is moved that effective following the 1993 Treasurer election, former and current Treasurers not elected in the most recent Benchers election be treated in the same manner as other *ex officio* Benchers (with the exception of the Attorney General for Ontario) and not have a vote in Convocation and that the Law Society propose to the Attorney General for Ontario an amendment to the *Law Society Act* to effect the foregoing.

Whereas:

1. Pursuant to subsection 14 (1) of the *Law Society Act* ("Act") every member who has been or is elected to the office of Treasurer is an *ex officio* Benchers with all the rights and privileges of an elected Benchers;
2. Pursuant to subsection 25 (1) of the Act, annually at the regular Convocation in May or at such other time as they may fix, the Benchers elect one of their number as Treasurer;
3. It is customary for Treasurers to stand unopposed for re-election for a second term;
4. It follows as a result of the foregoing that any former Treasurer of the Law Society of Upper Canada ("Law Society") may be elected as Treasurer without having been elected as Benchers in the most recent Benchers election;
5. There appears to be no provision of the Act which would prevent a former Treasurer from standing for election as a Benchers;
6. Pursuant to section 7 of the Act the Treasurer is the president and head of the Law Society;
7. It is a basic principle of responsible government that the head of government have the support of the electorate. It is submitted that as president and head of the Law Society the position of Treasurer is analogous in many respects to the position of head of government.
8. The Law Society has been striving towards more open, accountable and democratic procedures;
9. It is submitted that the democratic principle of the accountability of the Law Society, and therefore of the Treasurer, to the public and to the members of the Law Society is compromised when the individual holding the position of Treasurer has not been duly elected in the most recent Benchers election with the other Benchers;

10. It is submitted that as president and head of the Law Society, the Treasurer is so central to the process of self-governance that he or she must have the support of the membership as expressed through the electoral process; and
11. It is submitted that adherence to a fully democratic process is essential if the Law Society is to govern itself responsibly in the public interest.



Therefore it is moved that effective in the 1993 Treasurer election, no person shall be eligible to be a Treasurer of the Law Society who has not been elected as a Bencher by the membership in the most recent Bencher election, and that the Law Society propose to the Attorney General for Ontario an amendment to the *Law Society Act* to effect the foregoing.

Richard F. Tinsley
Secretary

Osgoode Hall
October 21, 1992



Notes



The Law Society of Upper Canada
Osgoode Hall
130 Queen Street West
Toronto, Ontario M5H 2N6

